

## ARTICLE 335

### Realty Transfer Tax

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### CROSS REFERENCES

Registration of real estate - See ADM. Art. 119

Property tax - See BUS. REG. Art. 329

#### 335.01 SHORT TITLE.

This article shall be known and may be cited as "The Realty Transfer Tax Ordinance." (Ord. 2017 §1. Passed 12/30/66 and Ord. 2929 §1. Passed 2/7/84.)

#### 335.02 DEFINITIONS.

The following words, when used in this article, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates a different meaning.

(a) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned or conducted by two or more persons.

(b) "Corporation" means a corporation or joint-stock association organized under the laws of this Commonwealth, the United States or any other state, territory or foreign country or dependency, including, but not limited to, banking institutions.

(c) "Document" means any deed, instrument or writing whereby any lands, tenements or hereditaments within this Commonwealth or any interest therein shall be quit-claimed, granted, bargained, sold or otherwise conveyed to the grantee, purchaser or any other person, but does not include wills, mortgages, transfers between corporations operating housing projects pursuant to the Housing and Redevelopment Assistance Law and the shareholders thereof, transfers between nonprofit industrial development agencies and industrial corporations purchasing from them; any transfers to nonprofit industrial development agencies, and transfers between husband and wife; transfers between persons who were previously husband and wife but who have since been divorced, provided such transfer is made within three months of the date of the granting of the final decree in divorce, and the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce; transfers between parent and child or the spouse of such a child, or between parent and trustee for the benefit of a child or the spouse of such child, by and between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises, correctional deeds without consideration, transfers to the United States, the Commonwealth of Pennsylvania or to any of their instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments, provided such reconveyance is made within one year from the date of condemnation, leases, a conveyance to a trustee under a recorded trust agreement for the express purpose of holding title in trust as security for a debt contracted at the time of the conveyance under which the trustee is not the lender and requiring the trustee to make reconveyance to the grantor-borrower upon the repayment of the debt, or a transfer by the owner of previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises is taken in trade by such builder as part of the consideration from the purchaser of a new previously unoccupied residential

premises, any transfer from a purchase money mortgagor to the vendor holding the purchase money mortgage whether pursuant to a foreclosure or in lieu thereof, or conveyances to municipalities, townships, school districts and counties pursuant to acquisition by municipalities, townships, school districts and counties of tax delinquent properties at sheriff sale or tax claim bureau, or any transfer between religious organizations or other bodies or persons holding title to real estate for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.

(d) "Person" means every natural person, firm, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person," as applied to associations, means the partners or members thereof and, as applied to corporations, the officers thereof.

(e) "Transaction" means the making, executing, delivery, accepting or presenting for recording of a document of any type or kind transferring title to or any interest in real property situate within the territorial limits of the City.

(f) "Value" - The actual pecuniary worth of any interest in real property which constitutes the subject of the transfer of any interest in the real property at the time such a transfer is consummated. Any actual monetary consideration for a transaction shall be prima facie, but not conclusive, evidence, of the actual pecuniary worth or value of interest in real property transferred, and shall be construed to include any sums of cash or articles of value agreed to be paid or exchanged, the face value of all mortgages, notes, judgments, liens or encumbrances given in connection with the transaction, together with any other evidence of indebtedness or promises, whether oral or written, given as full or part consideration for the transaction, provided that the valuation of the real property or interest in real property transferred shall in no event be less than the amount of the highest assessment of such real property, or interest in real property for local tax purposes, if such interest has been so assessed.

(g) "Tax Collector" - The City Treasurer, by virtue of his office, shall be the collector of taxes imposed by this article. (Ord. 2017 §2. Passed 12/30/66.)

### 335.03 TAX RATE.

On and after the effective date of this article, a tax for City revenue purposes is levied, assessed and imposed at the rate of one percent of the value, or the sum of one dollar (\$1.00) on every one hundred dollars (\$100.00) of the total value, or fraction thereof, upon the transfer of real property, or of any interest in real property, situate within the City, provided that where any lands, tenements or hereditaments, or any interest therein, are located partly within and partly without the territorial limits of the City, such tax shall be levied and assessed only upon the value of that portion of such lands, tenements or hereditaments or interest therein, which lies within the boundaries of the City. (Ord. 2017 §3. Passed 12/30/66.)

### 335.04 PROPERTIES PARTLY OUTSIDE CITY.

Where lands lying partly within the boundaries of the City and partly without such boundaries are transferred, the tax herein imposed shall be calculated upon such portion of the value as shall be represented by the portion of such lands lying within the boundaries of the City, such apportionment of value to be evidenced by the affidavit or certificate of value hereinafter provided for, but shall in no event be less than the highest assessed valuation for local tax purposes placed upon the same in the assessment of property within the City. (Ord. 2017 §4. Passed 12/30/66.)

### 335.05 WHEN PAYABLE.

The tax levied hereunder shall be due, payable and be paid by the grantor or transferor named in any instrument of conveyance at the time of the execution and delivery of any instrument conveying an interest in real property situate within the City. The transferee shall remain liable for any unpaid tax imposed by this article. (Ord. 2017 §5. Passed 12/30/66.)

### 335.06 CONSIDERATION TO BE STATED.

Every instrument of conveyance effecting a transfer of title to real property or interest therein, located in the City, shall set forth as part of such instrument the full, complete and actual consideration for the transfer of real property described therein, or shall be accompanied by a certificate of any attorney at law or an affidavit executed by a responsible person connected

with the transaction showing such connection and setting forth the true, full, complete and actual value thereof, and if the privilege of making such transfer is not taxable hereunder, the factual reasons why such transfer is not subject to the transfer tax provided for herein. (Ord. 2017 §6. Passed 12/30/66.)

#### 335.07 TAX STAMPS TO BE AFFIXED.

The payment of the tax imposed by this article shall be evidenced by the imprinting of a receipt for payment of the tax on the instrument of conveyance by the Recorder of Deeds of the County in which the instrument is recorded. The person imprinting the receipt shall write in appropriate blanks in the receipt his initials, the amount of tax paid and the date of payment. (Ord. 2127 §1. Passed 1/7/69.)

#### 335.08 DUTY OF TAX COLLECTOR; UNLAWFUL USE OF STAMPS. (REPEALED)

EDITOR'S NOTE: Section 335.08 was repealed by Ordinance 2127 §2, passed January 7, 1969.

#### 335.09 RECORDER OF DEEDS TO BE AGENT; BOND PREMIUMS. (REPEALED)

EDITOR'S NOTE: Section 335.09 was repealed by Ordinance 2127 §3, passed January 7, 1969.

#### 335.10 ENFORCEMENT BY TAX COLLECTOR.

The Tax Collector or his agent, for the time the tax is due and payable, is hereby charged with the enforcement of the provisions of this article, and is hereby authorized and empowered to prescribe, adopt and enforce rules and regulations relating to the registration and notation of such transactions and the payment and receipt of such taxes and any other matter pertaining to the administration and enforcement of the provisions of this article. (Ord. 2017 §10. Passed 12/30/66.)

### 335.11 DUTY OF RECORDER OF DEEDS; COMMISSION.

The Recorder of Deeds of Northampton County and the Recorder of Deeds of Lehigh County, respectively, or any of their respective deputies, shall be the agent of the Tax Collector of the City for the collection of the tax imposed by this article at the time any deed, as hereinbefore defined, is presented for recording in the office of the Recorder of Deeds in and for Northampton County, and in the office of the Recorder of Deeds in and for Lehigh County, and each such Recorder of Deeds shall receive a commission of two percent upon the amount of tax collected by each of them, or any of their respective deputies, under the provisions of this article, which such two percent shall be deducted prior to the remitting of the amount of the taxes collected by them, respectively, in each month, to the Tax Collector of the City, together with their sworn statements of the taxes so collected by each of them under the provisions of this article. (Ord. 2017 §11. Passed 12/30/66 and Ord. 2994 §3. Passed 5/7/85.)

### 335.12 SEVERABILITY.

The provisions of this article are severable, and if any of its sections, clauses or sentences shall be held illegal, invalid or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses or sentences. It is hereby declared to be the intent of Council, that this article would have been adopted if such illegal, invalid or unconstitutional section, clause or sentence had not been included therein. (Ord. 2017 §13. Passed 12/30/66.)

### 335.99 PENALTY.

(a) Any person failing, neglecting or refusing to pay the amount of the Real Estate Transfer Tax shall be required to pay the amount thereof, together with interest thereon, until paid, and/or undergo imprisonment for violation of this article for a period not to exceed ninety days.

(b) Any person failing, neglecting or refusing to comply with any of the provisions or terms of this article, or of any regulation or requirement authorized by this article, shall be fined six hundred dollars (\$600.00) or imprisoned not more than ninety days, or both. (Ord. 2017 §12. Passed 12/30/66; Ord. 3242-Passed 2/7/89)